

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Plaintiff David C. Pride, Jr., a state prisoner proceeding *pro se* and *in forma pauperis*, has filed a Complaint pursuant to 42 U.S.C. § 1983. [Doc. No. 1] Plaintiff has submitted a motion in which he requests that the Court appoint counsel for him pursuant to 28 U.S.C. § 1915. [Doc. No. 39] For the reasons set forth below, Plaintiff's motion is **DENIED**.

Plaintiff is requesting appointment of counsel because he is a lay person and because he believes it will be difficult for him to adequately present his case which will require him to locate and retain expert witnesses, interview witnesses, and perform investigations. He also argues, without support, that his case has a likelihood of success on the merits.

"[T]here is no absolute right to counsel in civil proceedings." *Hedges v. Resolution Trust Corp.*, 32 F.3d 1360, 1363 (9th Cir. 1994) (citation omitted). District

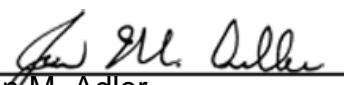
1 courts have discretion, however, pursuant to 28 U.S.C. § 1915(e)(1), to appoint counsel  
2 for indigent civil litigants upon a showing of “exceptional circumstances.” See *Terrell v.*  
3 *Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). “A finding of exceptional circumstances  
4 requires an evaluation of both ‘the likelihood of success on the merits and the ability of  
5 the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues  
6 involved.’ Neither of these factors is dispositive and both must be viewed together  
7 before reaching a decision.” *Id.* (citations omitted).

8 Plaintiff has demonstrated an ability to articulate the factual and legal bases of  
9 his claim with sufficient clarity. Indeed, Plaintiff’s claim for monetary damages against  
10 the four individual prison staff Defendants, acting in their individual capacities, remains  
11 in the case, and Defendants have answered the Complaint. Based on the information  
12 currently before the Court, it is clear that Plaintiff has the competence necessary to  
13 pursue his case. Without more, this Court cannot conclude that there are “exceptional  
14 circumstances” which would warrant the appointment of counsel in Plaintiff’s case. Nor  
15 has Plaintiff submitted anything which would suggest he is likely to succeed on the  
16 merits or that it would be in the interests of justice for counsel to be appointed in his  
17 case.

18 Based on the foregoing, **IT IS HEREBY ORDERED** that Plaintiff’s motion for  
19 appointment of counsel is **DENIED**.

20 **IT IS SO ORDERED.**

21 DATED: April 29, 2009

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24 Jan M. Adler  
U.S. Magistrate Judge  
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